

# ANALYSIS OF AMENDED BILL

## Franchise Tax Board

Author: Assembly Budget Comm. Analyst: Kristina E. North Bill Number: AB 1747  
Related Bills: See Legislative History Telephone: 845-6978 Amended Date: June 24, 2003  
Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Natural Heritage Preservation Tax Credit/Suspend Award of Credits for Fiscal Year 2003/2004

### SUMMARY

This bill would suspend the award of Natural Heritage Preservation Tax Credits through June 30, 2004.

This analysis will not address the bill's provisions relating to various fees or funds, as they do not impact the department or state income tax revenue.

### SUMMARY OF AMENDMENTS

The June 24, 2003, amendments removed the bill's general provision regarding the budget and replaced it with the provisions discussed in this analysis. Specifically, this bill would suspend the Wildlife Conservation Board's authority to award the Natural Heritage Preservation Tax Credit between July 1, 2003, and June 30, 2004.

This is the department's first analysis of this bill.

### PURPOSE OF THE BILL

The purpose of this bill is to suspend the award of any Natural Heritage Preservation Tax Credits for fiscal year 2003/2004 to increase state revenues.

### EFFECTIVE/OPERATIVE DATE

This provision would become operative on January 1, 2004.

### POSITION

Pending.

### ANALYSIS

#### FEDERAL/STATE LAW

**Current federal and state laws** provide various tax credits designed to provide tax relief for taxpayers that incur certain expenses (e.g., child and dependent care credits) to influence business practices and decisions or achieve social goals.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Department Director

Date

Gerald H. Goldberg

7/18/03

**Under the California Public Resources Code (PRC)**, the Natural Heritage Preservation Tax Credit Act of 2000 was established to encourage donations of land to the state, to local governments, or to designated nonprofit organizations.

An owner of land must apply to the Wildlife Conservation Board for approval to donate and to certify that the property satisfies certain requirements. If the Wildlife Conservation Board approves the contribution, the contributor of the property may receive a credit equal to 55% of the property's fair market value. The Wildlife Conservation Board is required to provide an annual listing to the Joint Legislative Budget Committee and the Franchise Tax Board containing certain information about each donation.

The Wildlife Conservation Board was authorized to award no more than \$100 million in tax credits to qualified taxpayers beginning fiscal year 2000/2001. The Wildlife Conservation Board may not award tax credits after fiscal year 2004/2005 without further statutory authorization. Although the credit was enacted for use beginning in taxable year 2000, the Wildlife Conservation Board did not start allocating credits until 2001.

In 2003, AB 3009 (Assembly Budget Committee, Stats. 2002, Ch. 1033) suspended the Wildlife Conservation Board's authority to award credits between July 1, 2002, and June 30, 2003. Any credits that were awarded before June 30, 2002, could be claimed on the 2002 tax return. Any credits that could have been awarded, but were not awarded, or any new credits awarded on or after July 1, 2003, could be claimed beginning on the 2003 tax return. Carryover of the credit was not affected for previously awarded credits, credits awarded before June 30, 2002, or any credits awarded on or after July 1, 2003.

### THIS BILL

**This bill** would suspend the Wildlife Conservation Board's authority to award credits for the additional period of July 1, 2003, through June 30, 2004. Any credits that could have been awarded between July 1, 2002 and June 30, 2004, but were not awarded, or any new credits awarded on or after July 1, 2004, and before December 31, 2005, could be claimed on the 2004 or the 2005 income tax return. Carryover of the credit is not affected for previously awarded credits, credits awarded before June 30, 2002, or any credits awarded on or after July 1, 2004.

### IMPLEMENTATION CONSIDERATIONS

This bill would not significantly impact the department's programs or operations.

### TECHNICAL CONSIDERATION

This bill is not designated as a tax levy or as an urgency statute; thus, it would become effective January 1, 2004. To avoid confusion regarding the Wildlife Conservation Board's authority to award Natural Heritage Preservation Tax Credits between July 1, 2003, and January 1, 2004, the author may wish to add language specifying that this provision would become operative July 1, 2003.

## LEGISLATIVE HISTORY

**AB 1502** (Laird, 2003/2004) would allow state bond funds to be used to reimburse the General Fund for the amount of Natural Heritage Preservation Tax Credits (preservation tax credit) that are awarded. This bill is currently held under submission in the Assembly Appropriations Committee.

**AB 3009** (Assembly Budget Committee, Stats. 2002, Ch. 1033) suspended the Wildlife Conservation Board's authority to award Natural Heritage Preservation Tax Credits for the period between July 1, 2002, and June 30, 2003.

**SB 1647** (O'Connell, Stats. 2000, Ch. 113) established the Natural Heritage Preservation Tax Credit Act of 2000 in the PRC and established the tax credits within the Revenue and Taxation Code (R&TC).

**SB 680** (O'Connell, 1999/2000) was held in Assembly Appropriations; **SB 2080** (O'Connell, 1998) failed passage in Assembly Appropriations; **SB 87** (O'Connell, 1997) failed passage by the house of origin by January 31 of second year of session. All of these bills would have established the California Land and Water Conservation Act within the PRC and would have established tax credits within the R&TC similar to the Natural Heritage Preservation Tax Credit.

## OTHER STATES' INFORMATION

*Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York* laws do not provide a credit comparable to the credit addressed by this bill. The laws of these states were reviewed because their tax laws are similar to California's income tax laws.

## FISCAL IMPACT

This bill would not significantly impact the department's costs.

## ECONOMIC IMPACT

### Revenue Estimate

This bill would result in the following revenue gain:

Revenue Impact As Amended June 24, 2003 (\$ Millions) As Enacted After June 30, 2003			
Fiscal Year	2003/2004	2004/2005	2005/2006
Revenue Impact	+\$8.5	Minor loss	Minor loss

Minor loss is less than \$500,000.

This provision does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

### Revenue Discussion

The above revenue estimate is based on actual and projected award information provided by the Wildlife Conservation Board. Under current law, it is estimated that for the July 1, 2003, through June 30, 2004, approximately \$26 million would have been awarded. However, the revenue savings to the state would be much less due to the following:

- ◆ Since the awards are so large, taxpayers generally do not have enough tax liability to claim the full amount of the credit in the initial year. It is projected that it takes approximately five years of applying the credit against tax liability to exhaust it.
- ◆ The awards suspended by this bill may be awarded beginning July 1, 2004, which would increase the amount of carryover credits to subsequent years.

This estimate assumes a July 1, 2003, operative date.

It is assumed that the \$100 million in total credit allocations would be utilized over the life of the credit. Thus, the revenue gain in 2003/2004 would be a loss of \$8.5 million in future years.

### **LEGISLATIVE STAFF CONTACT**

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